



2009 Emergency Budget Furlough Guidance Document

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December 2008**

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Overview and Definitions

A significant budget shortfall has been identified for 2009. In order to address the shortfall, program cuts and reductions in force are being implemented. In order to preserve certain services and reduce the necessity for additional reductions in force, the county will shut down most of its major facilities on the following days during the 2009 calendar year requiring mandated leave by all furlough-eligible county employees:

Friday, January 2, 2009
Friday, February 13, 2009
Friday, April 10, 2009
Friday, May 22, 2009
Friday, June 19, 2009
Monday, July 6, 2009
Friday, September 4, 2009
Monday, October 12, 2009
Wednesday, November 25, 2009
Thursday, December 24, 2009

This manual will be revised and updated as necessary. Such changes may include the incorporation of new policy direction, King County ordinance or state and federal law.

The following assumptions were made in drafting this manual:

- The provisions of King County Code (KCC) Chapters 3.12 as amended and 3.15 as amended must be followed;
- Unions will be informed in advance of potential personnel administration changes; and
- Furlough-ineligible functions have been identified by body of work and are not subject to the emergency budget furlough.

This manual is intended to provide guidance to county managers, human resources practitioners and payroll staff members in implementing the substantial county shut down. This manual is not intended to alter or supersede the agreement negotiated between the county and certain of its labor unions. In addition, union representatives and departmental management may meet as necessary to discuss the issues related to implementation of the mandatory leave days with the goal that all eligible employees will serve mandated leaves. This manual is not intended to impede or supersede those discussions. This manual is intended to comply with Title 3 of the King County Code and the Memorandum of Agreement. This manual will be updated as necessary.

The effect of the provisions of this manual confer no new privilege, right of appeal, right of position, transfer, demotion, promotion nor reinstatement for any King County employee, contract worker or volunteer. This manual does not constitute an express or

implied contract. It provides general guidance that cannot form the basis of a private right of action.

Definitions

"Delayed furlough day" means a day off without pay taken in place of a designated furlough on which an hourly employee was not scheduled to work.

"Emergency budget furlough," also referred to as "mandated leave," means placing an employee in a temporary status without duties and without pay due to financial emergency necessitating budget reductions. Furloughs will temporarily be administered as follows:

1. Notification of furlough is to be processed in writing when possible; however, any reasonable notice is permissible.
2. During an emergency budget furlough day, furloughed employees remain King County employees.
3. Outside employment for furloughed employees remains subject to the county's ethical rules concerning conflicts of interest.
4. Furloughed employees may not volunteer to do what the county otherwise pays employees to do.
5. Health insurance will continue in full for a furloughed benefit-eligible employee unless the employee is on unpaid leave more than 30 consecutive days for period of time to be determined by executive policy.

"Enhanced pay" means pay which is calculated as a percentage based on the individual employee's job classification, range and step. It is paid on normal hours. As a result, such amounts will not change as a result of the furloughs.

"FLSA-exempt employee" means an individual designated by the Human Resources Division (HRD) Director as being employed in a bona fide executive, administrative, or professional capacity, as defined by the Fair Labor Standards Act (FLSA) or the Washington Minimum Wage Act (WMWA), and who is therefore exempt from the overtime pay and minimum wage requirements of the FLSA or the WMWA.

"Furlough day" means any day in which a furloughed employee is placed in a temporary status without duties and without pay due to a financial emergency necessitating budget reductions.

"Furloughed employee" means any employee who is placed in a temporary status without duties and without pay due to a financial emergency necessitating budget reductions.

"Hourly employee" means an employee who is entitled to be paid for all actual hours that he/she is required or permitted to work at either the straight-time regular hourly rate for hours worked up to and including forty (40) in the workweek or overtime hourly rate at one and one-half times the hourly employee's regular rate of pay for each hour worked in excess of forty (40) in the workweek.

“Workweek” means a fixed and regularly recurring period of 168 hours during seven consecutive twenty-four hour periods. For employees paid under the MSA system, an employee’s typical workweek begins at 12:00 a.m. on Sunday and continues for the next 168 hours through Saturday, unless otherwise designated in writing by the department director. For employees paid under the PeopleSoft system, an employee’s typical workweek begins at 12:00 a.m. on Saturday and continues for the next 168 hours through Friday, unless otherwise designated in writing by the department director.

Section 1 - Applicability

- **Furlough-Ineligible Employees.** In collaboration with county management teams, the Office of Management and Budget (OMB) has identified a list of furlough-ineligible positions, functions and work units within the government. That listing has been provided to the county labor unions and employee representatives in accordance with the Memorandum of Agreement. As circumstances develop, the county may realize a need to make minor adjustments to the list of furlough ineligible positions. The modification of the furlough-ineligible list must be submitted to the department's budget supervisor in OMB. The budget supervisor will work within OMB to obtain approval or disapproval of the proposed change. Such changes must also be discussed in the existing Labor Management Committee (LMC) process. Where ever possible, if there is not a resident LMC process, the union or employee representative(s) associated with the department or Division should be contacted for discussions. Each departmental Human Resources Service Delivery Manager, in conjunction with the Department Deputy Director and the Labor Negotiator, has the responsibility to coordinate this activity for his or her department. The Labor Negotiator III in the Labor Relations Section of HRD, Jim Johnson, will maintain the recognized "master list" of furlough ineligible functions on furlough days will be operational decisions made by department management. Department management is encouraged to actively work with their in-house LMCs in order to ensure communication about furloughs is provided. Ensuring employee input on operational details is key to successful furlough management. Department management is encouraged to make use of the Labor Negotiators to communicate with Business Representatives.
- **Short-Term Temporary (STT) employees.** STT employees will take the furlough days as scheduled. Where a STT employee is working an alternative workweek which provides for a regularly scheduled day off on a scheduled furlough day, an alternative unpaid furlough day will be scheduled preferably within the same week as the standard furlough day. Furlough days will not serve to modify the terms or length of service of STT employees. STT employees will continue to be limited to 910 or 1040 paid hours in conformance with the initial terms and conditions of their appointment. STTs may not be used to substitute for regular employees who are on furlough days. The unpaid furlough hours do not count against the total but may serve as a rationale for the extension of an STT employment period.
- **Term-Limited Temporary employees (TLT).** TLT positions are authorized for a specific period of time. There will be no modification in the approval process for TLT employment. There will be no automatic extensions of TLT employment in order to adjust for furlough days. Any requests for extensions will be addressed on a case-by-case basis.

TLT employees will take unpaid furlough days on each of the days scheduled in the Memorandum of Agreement and/or proclaimed by the King County Executive. TLT employees with alternative workweeks whose schedule calls for a regular day off on a scheduled furlough day, will schedule an alternative unpaid furlough day. (*See* Section 3 of this manual.) Supervisors and managers must make such arrangements in late 2008. Newly-hired TLT employees must be advised of furlough days upon appointment.

- **Contract Workers (CW).** Contract workers are limited in the number of hours authorized to work for any King County agency. The institution of furlough days in 2009 will not alter the hours limitations for contract workers. When employing a contract worker, the employing agency must ensure that the contract worker is notified in advance of furlough days. HRD Operations will inform all contract worker vendors of the furlough days. Contract workers are not paid for furlough days. Contract workers may not be used to substitute for regular employees who are on furlough days.
- **Interns and Work-Study Students.** Interns and work-study students will observe furlough days. Schedules of interns and work-study students may not be modified in order to avoid furlough day observation. There will be no “makeup time” for interns or work-study students.
- **FLSA-Exempt Employees.** All employees, including FLSA-exempt employees, who are identified as furlough eligible, will be strictly prohibited from working on furlough days. During weeks in which a furlough occurs, FLSA-exempt employees will be converted to hourly status. Such employees will be required to track their hours consistent with the standard hourly tracking practices resident in their home department. During the period when FLSA-exempt employees are converted to hourly, they must subscribe to standard working hours and all other rules (*e.g.*, rest periods and meal periods, leave requests) which are required in their home department. For example, partial-day absences due to medical appointments must be requested in advance and deducted from the employee’s sick leave accrual balance.

FLSA-exempt employees converted to an hourly status in a week in which a furlough occurs are specifically directed not to work hours in excess of a standard schedule without the specific authorization of their supervisor or manager. Such work includes being physically present in the office, work at home, work online, work on the telephone, “working lunches”, work on a black berry or work on a cell phone. All work in service of the county for which an individual does not receive compensation through the approval process, including overtime, is prohibited. Employees in violation of the requirement are subject to discipline.

Section 2 – Pay and Benefits

Unless otherwise provided in an applicable collective bargaining agreement, the following applies:

- **Adjusted Service Date.** An employee's adjusted service date shall not be changed due to unpaid furlough days.
- **Probationary Periods.** Probationary periods are generally six (6) months in length. With the institution of furloughs, probationary periods will continue to be six months. Probationary periods may be subject to extension with the approval of the HRD Director. Furlough days will not be considered as a reason to extend a standard probationary period.
- **Meal Rest Periods.** There will be no change in meal and rest periods due to furlough days being observed in any workweek. All employees must observe the meal and rest period regulations as follows:

Employees working three or more hours longer than a normal workday shall be allowed at least one 30-minute meal period prior to or during the overtime period. Meal periods must be at least 30 minutes in length and must begin no less than two hours or more than five hours from the beginning of the shift.

Employees shall be allowed a rest period of not less than 15 minutes, on the employer's time, for each 4 hours of working time. Rest periods shall be scheduled as near as possible to the midpoint of the 4 hour period. Rest periods may be taken on an intermittent basis.

- **Workweek.** The definition of "workweek" will consist of seven consecutive 24 hour periods or 168 consecutive hours. Title 3 of the King County Code specifies that the HRD Director shall determine the workweek. The HRD Director has determined that ten furlough days will be observed during 2009, reducing the days worked during the weeks under which a furlough day occurs. The HRD Director will be reliant upon department directors to administer workweeks affected by the furlough.
- **Recordkeeping Requirements.** Under the FLSA, the county is required to keep records about its employees. For FLSA overtime-eligible employees, also known as hourly employees, this means that records must be kept for hours worked each day and the total hours worked each workweek. Because no particular form of records is required, each agency may continue to keep records in accordance with their normal record keeping process. Recordkeeping requirements will also apply to FLSA-exempt employees who are indentified as furlough-eligible because they are converted to hourly employees in a week in which a furlough day occurs.

- **Overtime and Compensatory Time.** Those terms and conditions describing overtime and compensatory time contained in collective bargaining agreements, the King County code, departmental operations manuals and Executive Orders will continue to apply. When FLSA-exempt employees are converted to an hourly status during a week when a furlough occurs, hourly terms and conditions will apply to them. For example, an FLSA-exempt employee who due to business conditions such as an emergency call out works more than forty (40) hours in a week while in an hourly status will earn overtime payment or compensatory time.

Compensatory time accrual (earning) for FLSA-exempt staff converted to hourly during furlough affected weeks will only be approved in rare and unusual circumstances. Managers must consult with their Human Resources Service Delivery Managers prior to making such approvals.

Mandatory unpaid leave (furlough) will not count as hours worked toward the overtime threshold. For daily overtime, the collective bargaining agreement will prevail. Non-represented hourly employees are paid overtime after 40 hours in one week. During a week including a furlough day, FLSA-exempt employees will be converted to hourly status.

- **Medical, Dental, Vision Benefits.** Medical, dental, vision and any other insured benefits will be unaffected by the mandated leave (furlough) except when an employee is on unpaid status for 30 consecutive days or more.
- **Retirement.** Retirement benefits are based on earnings and the resulting contributions to the retirement system and the number of service credits one has earned. Since benefits are based in part on earnings, unpaid furlough days will affect one's retirement benefit if the furloughs are experienced in an employee's highest earnings years.

A component of eligibility in PERS plans is determined by service credit months. A PERS 1 employee paid at least 70 hours in a calendar month earns one full service credit for that month. A PERS 1 employee earns a one half service credit if the employee is paid 1 to 69 hours in a calendar month. A PERS 2 employee paid at least 90 hours or more during a calendar month earns one full service credit. A PERS 2 employee paid 70 to 89 hours in a calendar month earns one half service credit. A PERS 2 employee paid 1 to 69 hours in a calendar month earns one quarter service credit.

Section 3 – Alternative Work Arrangements

- **Furlough-Eligible Employees.** All county employees, except furlough-ineligible employees, will be required to observe unpaid furlough days in 2009 equivalent to two weeks of their normal work schedule.
- **Part-Time Employees.** Part-time employees will observe furlough days on those days designated in the Memorandum of Agreement, proclaimed by the King County Executive or as agreed upon in paragraph 11 of the memorandum of Agreement or this manual section. The amount of furlough hours observed by part-time employees shall be pro-rated to be equivalent to two weeks of a normal schedule. For example, an employee working four hours per day or twenty hours per week would observe 4 hour furlough days for a total of 10 furlough days or 40 hours. Where it is necessary for a part-time employee's schedule to be modified to include the equivalent of 10 prorated unpaid days (80 unpaid hours), it is the supervisor's and manager's affirmative responsibility to actively engage the employee to make such adjustments. For represented employees, management, the union and the employees will meet as necessary to discuss implementation issues with the goal that all employees will serve mandated leaves.

Alternative Workweeks. Individuals working a compressed workweek (*e.g.*, 4/10 hour workweeks) will be required to observe unpaid furlough days. The amount of unpaid furlough hours in a year will be the equivalent to ten (10) days of unpaid furlough days (80 unpaid hours). Such individuals must work collaboratively with their managers and supervisors to establish a 2009 schedule of observed, unpaid furlough days before December 31, 2008. LMC discussions will allow the parties to develop methods for individuals to observe their furlough days, with the goal that all eligible employees will serve equitable mandated leave days. Departments should not simply impose a "master solution" strategy to address the furlough circumstances such as cancelling alternative workweeks during weeks containing a furlough. The key to managing the furloughs will be labor-management collaboration. Individuals converting to an alternative workweek after January 1, 2009, must develop a proposed unpaid furlough day alternative schedule as part of their alternative workweek conversion application. Supervisors will review the proposed plan as part of the alternative workweek conversion approval process. Such schedules must be approved and in place in advance of commencing an alternative workweek. The preferred approach when identifying an alternative day to be observed as a furlough day is to schedule it within the same week. The less preferred approach is to schedule the alternative furlough day within the same pay period. Departments are strongly encouraged to establish alternative furlough days for the year on a date certain.

- **Individuals working an alternative workweek who have a normal day off on a scheduled unpaid furlough day must observe an alternative unpaid furlough day.**

- **Individuals working an alternative workweek whose schedule calls for reduced hours on a normally scheduled, unpaid furlough day, have the same unpaid furlough days requirement as all other employees.** If, for example, an individual works a 9/4 schedule (nine hours per day, Monday through Thursday, and four hours each Friday), he or she must enter into an agreement with his or her supervisor to ensure that the number of unpaid furlough days observed during 2009 equal 10 unpaid furlough days (80 unpaid furlough hours).
 - Some King County agencies continue to work a 35 hour per week schedule. Individuals working a 35 hour per week schedule are required to observe unpaid furlough days which would be the equivalent of ten (10) unpaid furlough days (70 unpaid hours).
- **Timekeeping.** Each department is responsible for establishing methods to ensure furlough days are observed by each furlough-eligible employee.
- **Telecommuting.** Individuals authorized to telecommute may continue to do so. If an individual is scheduled to telecommute on a scheduled furlough day, he or she must observe the furlough and may not telecommute on the furlough day. The prohibition applies to both FLSA overtime-eligible (hourly) and FLSA-exempt employees.

Section 4 – Leave Administration

- **Vacation and Sick Leave Accruals.** Vacation and sick leave accruals will not be affected by the 2009 scheduled furlough days.
- **Vacation.** Employees may not use their paid vacation benefit on a day they would not normally be paid. Emergency budget furlough days are not paid. Some county employees will be allowed to use vacation on emergency budget furlough days. They include employees who intend to retire in 2009 or 2010, benefits-eligible employees earning \$16.92 per hour or less, and furlough-ineligible employees.
- **Vacation Carryover.** Failure to use vacation leave beyond the maximum accrual amount results in forfeiture of the vacation leave beyond the maximum unless specific “carryover” authorization has been provided by the HRD Director. The HRD Director will ensure that where an employee is denied vacation time as a direct result of the department’s necessity to schedule mandated leave time, the employee may carry over vacation in excess of the maximum accrual. However, excess vacation carryovers not due to a department’s necessity to schedule mandated leave time will be subject to the standard carryover processes. Employees and managers will be obliged to plan their vacations and workload during the year in order to avoid maximum vacation accrual issues.
- **Employees Earning \$16.92 or Less per Hour.** Employees in a position earning \$16.92 per hour or less during the pay period of a (furlough) day may, for that mandated leave day, use their vacation leave, previously accrued compensatory time, executive leave, or accepted donated vacation leave to cover their pay for that day. Such employees must submit the standard leave forms to their supervisor in order for vacation to be recorded on the subject furlough days.

The \$16.92 per hour threshold applies to every individual mandated leave day. Individuals at or below \$16.92 per hour must qualify for each mandated leave day. If an individual receives compensation increases during the course of the year which advances the employee’s compensation above \$16.92 per hour, the employee may not utilize paid leave time on furlough days.

With approval from management, employees may voluntarily donate vacation leave to employees in a position earning \$16.92 per hour or less or below during the pay period of a mandated leave day for the sole purpose of helping these employees preserve their pay during the mandated leave. Unused donated leave will remain with the donee and will not revert back to the donor. Such donations must be received in advance of the furlough days for which they will be used. Vacation which has not been accrued or received through donation may not be used for a furlough day.

Hours donated to employees in a position earning \$16.92 per hour will be on an hour-for-hour basis. There will not be a conversion to a dollar value based on the donor's straight time hourly rate at the time of donation.

Donated vacation leave hours shall be excluded from vacation leave payout provisions. The number of hours donated shall not exceed the donor's accrued vacation credit as of the date of the donation. No donation of vacation shall be permitted where it would cause the employee receiving the transfer to exceed his or her maximum vacation accrual.

Employees earning \$16.92 per hour or less may not accept more than eighty (80) hours of vacation leave contributions for the purpose of helping such employees preserve their pay during the mandated leave.

Employees in a position earning \$16.92 per hour may not use sick leave as a substitute for vacation hours in order to be paid for a scheduled, unpaid furlough day.

Individuals may not donate accrued compensatory time or executive leave time to another individual.

HRD will provide departments with a listing of all employees being compensated at \$16.92 per hour or less in advance of each scheduled furlough day.

- **PERS Employees Retiring During 2009 or 2010.** Employees enrolled in the PERS program who submit letters of intent to retire to the county during calendar years 2009 or 2010 may, for their mandated leave days, use vacation leave. Should any employee who submits such notice not retire during 2009 or 2010, an additional amount of vacation, equal to the number of vacation days that were used for the mandated leave in 2009, will be deducted from their leave banks at the end of the respective calendar year.

Employees electing to notify their appointing authority of their intent to retire from the county during calendar years 2009 or 2010 must, at a minimum, include the following information:

- Name
- Classification
- Organizational unit (department, division, section)
- Date of retirement eligibility
- Proposed last day of employment

A form (attached) has been developed for use by such employees.

Conditions may develop where a person who had not intended to retire experiences circumstances which force a change in plans. Such circumstances may include the development of a health condition or emergent family issues. Such persons may discuss the matter with their supervisor and submit intent to

retire notification. The department may make vacation payments to the person for the furlough days already recorded. The remaining furlough days the employee will be paid in 2009 and 2010 may also be paid as vacation.

Employees who declare intent to retire and subsequently change plans will have their vacation accrual reduced by the number of furlough hours for which they were paid vacation. For example, a full time employee who declared intent to retire in January would be allowed to utilize vacation on each of the ten furlough days. If at the end of the year, the employee changed plans and did not retire; his or her vacation accrual would be reduced by 80 hours. Thus, during the course of the year, the employee would be charged for 80 hours of vacation on the furlough days and an additional 80 hours due to the changed retirement decision.

Furlough days are not subject to “buy back” for employees deciding to retire in out years.

- **City of Seattle Retirement System.** City retirement is similar to PERS 1. Because it is similar to PERS 1, employees retiring from the City Retirement System would have a reduced retirement benefit because of the eighty (80) hour furlough. Employees who are members of the City Retirement System and who have filed a “Declaration of Intent to Retire” may use vacation on furlough days. Such persons must complete the standard absence request forms resident in their department. Please note that in spite of the substantial similarities between PERS plans and the City of Seattle Retirement plan, differences do exist. Such differences may have an affect on employees retiring in 2011 or beyond. A consultation with Sharon Brown of FBOD is in order for City Retirement System employees planning retirement benefits for 2011 or later.
- **Rescission of Approved Vacation Leave, Executive Leave and Compensatory Time.** The county requires all employees who wish to use accrued leave (except sick leave) to pre-arrange approval in advance of the day of absence. Employees are not eligible to be paid for vacation, executive leave or previously accrued compensatory time on days when they would not normally be paid. Supervisors and managers are not authorized to approve paid leave days for those persons scheduled to take an unpaid furlough day on such dates. Approvals which have been provided to such employees must be addressed in accordance with Section 6 of this manual. If there is a rescission of such previously approved leave, it must be in writing. Managers and supervisors are required to make such rescissions in conformance with applicable LMC agreements, collective bargaining agreements and the Memorandum of Agreement.
- **Family Medical Leave (FMLA).** Employees will continue to have 12 weeks of protected FMLA leave. Employees will not have a right to be paid on any day on which they would not normally be paid. In other words, employees on FMLA are not entitled to a paid day on a furlough day. Employees on FMLA leave will have the equivalent number of protected days for each furlough day added to the end of the 12 weeks of protected FMLA leave. For example, an individual on 12

weeks of FMLA leave which covers January 1st through March 26th would have two days of FMLA protected leave added to the end of that period since two furlough days are scheduled to be observed in the first three months of 2009.

Eligibility: An emergency budget furlough day is considered to be a regular day off and should not be counted when calculating leave eligibility. For example, when calculating whether the employee worked 1,250 hours in the previous 12 months under FMLA, one would not count any furlough days as earned or hours worked hours. In contrast, when calculating whether the employee has been employed by King County for at least 12 months, one would count one week of work as one week of service, regardless of whether the week contained a furlough day.

- **Military Leave.** The Washington State Legislature changed the number of paid military leave days from 15 to 21 in 2008. Appointing authorities will continue to grant military leaves in accordance with the law. The leave periods are not to exceed **21** work days during each year. Such leaves are made with pay, to employees eligible for leave benefits for the purpose of taking part in active duty or military training. Employees are not eligible to be paid for military leave on days when they would not normally be paid. Unless identified as “furlough-ineligible”, employees on military leave are not paid on furlough days. Persons taking military leave will continue to receive 21 paid work days per year to take part in active duty or military training. The requirements to submit a written request for military leave to the employee’s appointing authority and attach copies of military documents that order the active duty will continue to be required. A county form is now available on which to submit the written request and available at:

<http://www.kingcounty.gov/employees/benefits/Forms.aspx>

- **Active Military Duty.** USERRA provides that employees on an emergency budget furlough or a leave of absence are to be given the same rights of employees on other types of leave. In the case of a furlough, active military employees do not have any more rights than other employees to use paid leave accruals while on leave for military service. For employees receiving supplemental military pay, furloughs will impact their regular differential pay. Such employees will not receive supplemental pay for emergency furlough days.
- **Spouses of Military Personnel.** Spouses of military personnel who are notified of an impending call up or are ordered to active duty or have been deployed are entitled to 15 days of unpaid leave per deployment or order to active duty provided the spouse provides notice within 5 days of receiving official notice from the military. Spouses of military personnel will continue to have the right to take unpaid leave days as described. Appointing authorities may continue to approve the use of previously accrued paid leave for such circumstances, except that appointing authorities may not approve the use of paid leave on emergency budget furlough days.

- **Domestic Violence Leave.** Effective April 1, 2008, under Washington State law, employees who are victims or who are family members of victims of domestic violence, sexual assault or stalking may take a reasonable period of leave to receive medical treatment, attend legal proceedings or address safety concerns. The employee may elect to use sick leave, other paid time off, compensatory time or unpaid leave time. Appointing authorities must continue to approve paid or unpaid leave time for domestic violence leave. Appointing authorities may not approve the use of paid leave time for those days for which an employee would not normally be paid. Appointing authorities may not approve the use of paid domestic violence leave for scheduled unpaid furlough days.
- **Bereavement Leave.** Employees eligible for leave benefits are entitled to three working days of bereavement leave per year due to death of members of their immediate family. Employees will continue to receive the full three days of bereavement per year. Employees are not eligible to be paid for bereavement leave on days when they would not normally be paid. Appointing authorities or their designees will continue to approve three days of bereavement leave within the limitations established. Appointing authorities may not approve the payment of bereavement days for scheduled unpaid furlough days.
- **Jury Duty.** Any employee eligible for leave benefits who is ordered to jury duty shall be entitled to his or her regular county pay provided that fees for jury duty are deposited, exclusive of mileage, with the Finance and Business Operations Division (FBOD). Employees are not eligible to be paid for jury duty on days when they would not normally be paid. Employees called to jury duty during an emergency budget furlough day would not be eligible to receive their regular King County compensation on that day but may be eligible to keep their court provided jury duty pay for that day which would otherwise be returned to King County.
- **Washington Family Care Act (WFCA).** The emergency budget furloughs should have no impact to WFCA leaves of absence. The WFCA provides that an employee may use paid leave accruals when caring for a qualifying family member with a serious health condition. The WFCA does not overrule a collective bargaining agreement or employer policies regarding the use of paid accruals (WAC 296-130-030 note). As a result, employees are not entitled to paid leave under the WFCA on an emergency budget furlough day.
- **Pregnancy, Childbirth or Pregnancy Related Conditions (PCPRC).** Emergency furlough days do not impact PCPRC leave. King County will continue to treat female employees on PCPRC in the same manner as other employees on leave for sickness or other temporary disabilities (WAC 162-30-020(4) (a)). PCPRC may be taken the day before and the day following an unpaid furlough day but not on the unpaid furlough day.
- **Sick Leave Use.** Employees may not use sick leave for mandated furlough days. Employees may use paid leave benefits only on those days they are normally

scheduled to work. Employees are not eligible to be paid for sick leave on days when they would not normally be paid. Unpaid furlough days are not paid regardless of whether the benefits-eligible employee was on sick leave the day before the unpaid furlough day, the day after the unpaid furlough day or on both sides of the unpaid furlough day.

- **King County Family Medical Leave (KCFML).** Employees will continue to be eligible for 18 weeks of King County Family Medical Leave. KCFML may be either paid or unpaid. Employees are not eligible to be paid or eligible for leave benefits on days they are not normally scheduled to work. Unpaid furlough days are not included in the use of an employee's 18 weeks of KCFML utilization. If an employee is on KCFML during an unpaid furlough day, an additional KCFML eligibility day is added to the end of the 18 week period.
- **Compensatory Time.** The use of previously earned compensatory time must be requested in advance by the hourly employee in writing. Requests to use compensatory time must be approved by the supervisor in writing. An employee who has requested the use of compensatory time shall be permitted to use such time within a reasonable period after making the request if the use of compensatory time does not unduly disrupt the operations of the agency. Employees are not eligible to be paid for compensatory time on days when they would not normally be paid.

FLSA-exempt employees who are permitted to earn compensatory time during a furlough week in which they are designated as hourly must also use compensatory time during a furlough week in which they were designated as hourly. Accrued compensatory time is cashed out at the end of each year. Managers and Supervisors must consider very carefully whether compensatory time will be approved in lieu of overtime payments. Once earned, managers and supervisors may not require an employee to use the compensatory time on a particular date. The recommended approach is the payment of overtime and not the approval of compensatory earning for FLSA-exempt employees during a furlough week in which they are designated as hourly.

- **PERS.** Retirement benefits are a function of earnings. Individuals close to retirement should consider the effect eighty hours of unpaid furlough in 2009 will have on their potential retirement benefit. Specific provisions are included in the administration of the furlough to assist potential retirees in the mitigation of the furlough's effects. Both represented and non-represented employees who plan to retire in 2009 or 2010 may use vacation on furlough days. Such employees must use the standard absence request forms and procedures resident in their department. (*See* section 6 of this manual.) Part-time employees should consider the effect of furloughs on their retirement planning. The lower number of hours worked in a furlough effected calendar month may affect the amount of service credit earned that month. If there are additional specific question on retirement, employees should be directed to Sharon Brown of FBOD at 206-263-9252. (*See* also Section 2 of this manual.)

- **Workers' Compensation.** The claims officers in the Office of Safety and Claims will be participating in the ten-day furlough and the office will be closed on furlough days. Time loss checks will be issued on time for all MSA and PeopleSoft paydays. The time loss payment calculations established by the Department of Labor and Industries use both the hours worked and the hourly rate. The reduction in scheduled work days will reduce the time loss rate slightly for some employees. Workers' Compensation already takes into account the previous 12 months of hours worked, including overtime, prior to the date of injury for the limited purpose of establishing the time loss rate. As a result, furlough days will be factored into the 12 month hours worked history. The 2009 time loss calculations will also include the hourly rate on the full 4.88 percent cost of living adjustment.
- **Unpaid Leaves of Absence.** If an FLSA-exempt employee is given authorization to take unpaid time during a furlough week, he or she may do so on an hourly basis rather than a full week basis. For example, a furlough day is scheduled for Friday. The employee asks for and receives authorization to take an unpaid day on Thursday. The employee may take the Thursday off without pay but will be allowed to be paid for Monday, Tuesday and Wednesday, however, unpaid time off will not accrue vacation and sick leave.
- **Furlough Replacement Time.** Represented employees whose union has entered into an agreement with King County may be eligible for furlough replacement time. Employees furloughed in 2009 will receive the equivalent of the time on furlough in furlough replacement time. One half of the time will be awarded in 2010 and one half in 2011, unless the county is in an official declared and council-sanctioned financial emergency. Any unused furlough replacement time will expire at the end of the calendar year in which it was awarded.

There is no provision for a furlough replacement time cash-out. Non-represented employees and represented employees not covered by the Memorandum of Agreement or separate equivalent agreements do not receive furlough replacement time. Departments have the responsibility to maintain records on furlough replacement time.

- **Holiday Pay.** The requirement to be in a paid status the day before and the day after a holiday in order to be paid for the holiday will be waived in those circumstances where the unpaid day is a mandated leave day. If an individual is in an unpaid status on a day before or a day following a holiday not caused by a mandated furlough day, the employee will not be paid for the holiday.

Section 5 – Facilities and Operations

With the exception of the King County Courthouse and the King County Correctional Facility, major downtown King County buildings will be closed on each of the furlough days. Although subject to change, at this time it is expected that the King County Courthouse access will be through the Third Avenue entrance only. Access to the Courthouse will not be available through the King County Administration Building. In order to restrict access to the Courthouse to the Third Avenue entrance only, access to the Administration Building through the Chinook Building tunnel will not be available on furlough days.

The King County Administration and the Chinook Buildings will be closed entirely on all furlough days. The Yesler Building, with the exception of the first floor, will be closed entirely on all furlough days.

On a case by case basis, a department director or separately-elected designee may make a request to the Facilities Operations Division to have a building opened and operational for a workgroup. Agencies wishing to operate a portion of their work units on furlough days in the Administration Building, Chinook Building or Yesler Building will be charged for all building operating costs for that furlough day. The capabilities of each of the buildings vary from one another. The Administration Building, for example, must be operated in its entirety if an agency requests HVAC and lighting. An agency requesting building operation on a furlough day would thus be responsible for all expenses associated with the heat, air circulation and lighting of the entire Administration Building. All other services will be provided on an emergency fee for service basis as reported by the tenant. Emergency service needs will need to be reported to security at 206-296-5000.

The Facilities Management Division will provide security and screening for Courthouse operations at the Third Avenue entrance on furlough days. In addition, the same services will be provided to the Maleng Regional Justice Center, the District Courts and the Youth Services Center.

The Facilities Management Division will provide signage announcing furlough days to similar the signage associated with holidays. The signage will be provided to major county buildings. Departments operating downtown leased buildings or outlying buildings may request appropriate signage from the Facilities Management Division Work Order Desk at 206-296-0641.

Key card access to the King County Administration Building and the Chinook Building will be programmed to provide no access on furlough days. Key card access for the Yesler Building will be operative but access will be limited to the first floor only on furlough days. Agencies, employees, vendors, or contractors who require access to the buildings on furlough days must make arrangements through the Work Order Desk forty-eight hours in advance of the scheduled furlough days.

In order to program and enable card reader access for furlough-exempt employees, track ingress and egress at secured facilities and generally maintain and report on the county's furlough efforts, a PeopleSoft-based electronic furlough tracking device (the "list") will be utilized. The list will be housed on a secured server with limited read-only access provided to certain list partners (*e.g.*, departments, Facilities Management Division, payroll, etc.). HRD and Payroll Operations will work collaboratively to manage and maintain the list data but the information produced is via department input which drives the results. Any proposed changes to furlough eligibility lists are communicated through the department Human Resources Service Delivery Manager and the HRD list administrators for final review with OMB.

Agencies operating buildings which are not managed by the Facilities Management Division must take those steps necessary to post signage and address building systems issues for each furlough day. Agencies in leased space are responsible for making arrangements with their building owners for furlough days.

If an emergency such as a natural disaster occurs on a furlough day, the standard response procedures will be followed. Each organizational unit with clients or customers is responsible for the communication of the furlough day notice to clients, customers and other entities with which it interacts. Although the Facilities Management Division will provide signage for those buildings it operates, notification beyond the simple posted notices will continue to be the responsibility of all operating agencies.

Section 6 – Rescission of Approved Leaves

There are many circumstances under which employees may have requested and have already received approval for vacations falling on what have become furlough days. This is an important topic for LMC discussion. In order to ensure alignment with collective bargaining agreements, directors, managers and supervisors should consult the LMCs and collective bargaining agreements. They should work with the appropriate Labor Negotiator, Union Representative and Human Resources Service Delivery Manager when engaging the subject of previously approved leaves which now fall on furlough days.

In general terms, King County employees are not eligible to be paid for any days when they would not normally be paid (regular or specially scheduled work days). One may not, for example, request and have approved vacation day payments for weekends unless the weekend is a normally scheduled work day for the employee. Unpaid furlough days are not normally scheduled work days. It is necessary for management and labor to work out the best local practices which address previously approved leaves. Rescinding leaves, rescheduling leaves or other solutions consistent with the Memorandum of Agreement and/ or the King County Code will be required to address the issue.

Unless an employee has been specified as furlough-ineligible for a mandated leave day, he or she must take the furlough day as time without pay unless an alternative furlough day has been previously arranged with the appropriate supervisor. In some cases, leave days are pre-approved months in advance. That is especially true if an individual has requested and had approved a lengthy vacation. Managers and supervisors should examine all leaves which received approval before December 31, 2008. If a paid leave day that has been approved for 2009 is now scheduled to be an unpaid furlough day, the director, manager or supervisor will engage the matter in a manner consistent with the practices determined by the LMC process. The same process may be applied to non-represented employees or a unique process as determined by the department and the employee.

The employee must be provided information on the furlough schedule. The employee must be informed that the day has been identified as an unpaid furlough day. For represented employees, the LMC process as agreed is then engaged. Unpaid furlough days may occur during a multi-day vacation or a multi-day sick leave occurrence. When rescinding previously approved leaves, a supervisor, manager or director should consult with their Human Resources Service Delivery Manager in order to ensure all of the appropriate steps have been followed. In the case of a non-represented employee, appropriate written notice should be provided to the employee when rescinding previously approved paid leaves. Human Resources Service Delivery Managers may assist in providing standard language to use in such circumstances.

Section 7 – Communication and Consistent Messaging

- **Labor Relations' Role.** The Labor Relations Section of HRD will serve as the chief point of contact for collective bargaining agreement interpretation as the contracts apply to the furlough Memorandum of Agreement. Each Labor Negotiator will be available to answer questions from union representatives and supervisors, managers and directors.

There are a number of operational issues in which it will be necessary for departmental management representatives to work directly with union representatives and employees on operational issues. The ideal forum for both general and specific issues is the LMCs. During such discussions, departmental management may discuss with union representatives decision making and consultation protocols. It is expected that LMCs will be utilized to resolve furlough implementation issues. If questions arise on the propriety of such discussions, departmental management staff members should consult with their Labor Negotiator.

- **Appointment and Promotion Letters.** All appointment and promotion letters for any employee newly hired into King County; re-hired into King County; or promoted must include a notification of furlough days. The appointment letters must state that King County will be shut down on the furlough dates. Employees who are furlough-eligible will not be paid for those dates. Employees hired on a schedule which calls for those dates to be a regularly scheduled work day must arrange an alternative furlough day with their supervisor.
- **Standard Language to be Included on Appointment and Promotion Letters.** The compensation for your position is \$XX, XXX annually and \$X, XXX monthly (for hourly positions: the hourly rate of pay for your position is \$XX.XX). In 2009, King County has scheduled ten (10) unpaid furlough days. You will not be paid for those days. The amount equivalent to each unpaid furlough day will be deducted from your standard compensation in the appropriate pay period for each unpaid furlough day (for hourly employees: You will not be paid for those days. The hours scheduled for the furlough days will not be compensated during the pay period of each furlough day). The scheduled 2009 furlough days are as follows:
 - Friday, January 2, 2009
 - Friday, February 13, 2009
 - Friday, April 10, 2009
 - Friday, May 22, 2009
 - Friday, June 19, 2009
 - Monday, July 6, 2009
 - Friday, September 4, 2009
 - Monday, October 12, 2009
 - Wednesday, November 25, 2009

– Thursday, December 24, 2009

- **Standard Suggested Form Letters.** Standard suggested form letters are included as attachments to this manual for:

- Persons intending to retire
- Persons earning \$16.92 per hour or less
- FLSA-exempt employees converting to hourly
- Furlough-ineligible employees

Furlough-eligible employees will be notified in broadcast E-mails or by other forms. Transit employees, Adult and Juvenile Detention employees and Sheriff's Office employees will be notified internally.

In 2009, job postings should include the following: "This position may be subject to up to ten (10) days of unpaid furlough leave in 2009."

Section 8 – General Provisions

- **Counseling Services.** The King County Employee Assistance Program (EAP) provides a number of employee support services through “Making Life Easier” (MLE). MLE can be reached by dialing 1-888-874-7290 any time, 24 hours a day, and 7 days per week. Included in the support services are referrals to credit counseling. If employees determine that financial developments and budgetary adjustments for 2009 create issues for them they are encouraged to contact MLE.
- **Work-Related Commitments and Events Scheduled for Furlough Days.** There are annual seminars, retreats and other work-related educational activities which are either currently scheduled or will develop during the course of 2009. In many cases, individual employees are permitted to attend such events as paid working hours. When such events are scheduled on a furlough day, individual employees may not attend as paid working time. Departments may continue to pay registration and tuition fees associated with such events if the employee wishes to attend on his or her personal time off provided that:
 1. Attendance is outside of the employee’s scheduled working hours;
 2. Attendance is voluntary;
 3. The meeting, lecture or training is not required by the employee’s job; and
 4. The employee does not perform any county work during attendance.

King County’s Training and Organizational Development section has rescheduled all of its educational offerings for 2009 for non-furlough days.

- **Work-Related Travel on Furlough Days.** When traveling in the service of the county, Subsection 3.24 of the King County Code applies. In addition, Administrative Policy and Procedure 17-1-2 also applies. Travel which may constitute work time must be preapproved. If a collective bargaining agreement provides for compensated travel time on a regularly scheduled day off, the provisions of the contract will be observed.
- **Standby Pay.** Standby pay is provided through many collective bargaining agreements for individuals subject to being called out during a regularly scheduled time off. Such time may be after working hours or on normally scheduled days off. Individuals who have been notified that they are on standby for a furlough day will be compensated the normal standby pay in conformance with the collective bargaining agreement. There are no non-represented county employees who may receive standby pay under the King County Code. (See Chart Attachment 8)
- **Callback Pay.** Many collective bargaining agreements provide for “callback pay.” Callback pay is provided when an individual is called to return to work after regular working hours or on a normally scheduled day off. If an individual

is called back to work on a furlough day, the terms and conditions of the collective bargaining agreements will be followed. The King County Code does not provide for callback pay minimum number of hours for non-represented employees. Non-represented hourly employees are paid for actual hours worked if called back to work. The employee is paid for the furlough day if called back, and will be required to make up the furlough day. (*See Charts Attachment 7 & 8.*)

- **Grievance Procedures.** Grievance procedures typically specify the number of days for each step of the grievance. The numbers of days are typically specified as “days,” “calendar days,” or “business days.” The personnel guidelines specify calendar days for each of the grievance steps. Under the personnel guidelines, all days including weekends and holidays are considered calendar days. Furlough days will likewise be considered calendar days for purposes of establishing grievance timelines.

The terms and conditions of all collective bargaining agreements will be observed unless specifically over ridden by the Memorandum of Agreement. Where a collective bargaining agreement specifies “calendar days,” furlough days will generally be considered calendar days. Where the collective bargaining agreement specifies “business days,” furlough days will be considered business days if the employee is furlough-ineligible and non-business days if the employee is furlough-eligible. Where the collective bargaining agreement specifies “days,” the parties will agree on the meaning of the term.

The Memorandum of Agreement defines the work days affected by the emergency furloughs. There is not a property right to scheduled or substituted furlough days. There is not a requirement to hold *Loudermill* hearings for employees who are identified as furlough-eligible.

- **Unemployment Compensation.** Eligibility is determined by the Washington State Department of Employment Security.
- **New Employee Orientation (NEO).** New employees will be advised of the furlough Memorandum of Agreement and Proclamation of the King County Executive at New Employee Orientation. They will be reminded of the furlough provisions specified in their appointment letter.
- **FLSA-Exempt Employees.** FLSA-exempt employees will receive a notification that they will be converted to an hourly status for each week containing a furlough. During such weeks, FLSA-exempt employees will be required to conform to all of the hours policies normally observed by hourly employees. Departments will have the obligation to advise FLSA-exempt employees upon hire or promotion of the terms and conditions applying to them as an FLSA-exempt employee during both furlough and non-furlough weeks. Departments have the obligation to ensure that the necessary adjustments to alternative workweek employee schedules are made in advance of the scheduled holidays and/or the scheduled furlough days. Standard notification is attached.

During weeks in which FLSA-exempt employees are converted to an hourly status, care must be taken to ensure that hourly rules are observed. Such employees must be allowed two rest periods per day and a meal period. They must observe the agreed upon starting and ending times to each work day. When outside of working hours (including meal periods) such employees may not use county systems such as VPN, Black Berries, telephones, pagers or cell phones to conduct county business. “Working lunches” are generally prohibited for such employees unless additional compensation is provided. Weekend work either at home or in the office is prohibited during a furlough-affected week. Attendance at off-hours meetings such as public hearings is compensable and must be recorded during furlough affected weeks. (*See* also Section 1 of this manual.)

- **Snow Days (Building Closures).** Employees are not paid for those days for which they are not normally scheduled to work. Furlough days are not scheduled work days. Most King County major buildings will be closed on furlough days. If circumstances develop where county facilities are closed for furlough-ineligible employees, building closure provisions will apply to only those individuals. If furlough-eligible employees are called back to work on such days, they will be paid for those days. FLSA-exempt employees called back on such days will be paid on an hourly basis including overtime eligibility.
- **Emergency Procedures.** In those cases where an emergency call out occurs on a furlough day or during a furlough week, employees may be called back to work. Such employees are compensated in accordance with standard compensation procedures and in conformance with the applicable collective bargaining agreement. FLSA-exempt employees may be called back to work on a furlough day. FLSA-exempt employees are compensated on an hourly basis for all time worked within a furlough affected week. FLSA-exempt employees are required to track their time during a furlough affected week consistent with the practices resident in their home department. Overtime pay is paid to such non-represented employees for all hours worked in excess of forty (40) hours within that week including weekend end days within the same week. If such employees are represented, they are paid in accordance with their collective bargaining agreement and/ or the Memorandum of Agreement (as applicable) for calculation of overtime.

Section 9 – Public Disclosure Act

The term “business day” is not defined under the Public Records Act. When considering whether one should count a furlough day as a business day, one should keep in mind that the act is to be liberally construed. Recognizing that some parts of the county will be open on furlough days, the recommended course of action is to regard all furlough days as business days for public disclosure request responses.

Section 10 – Department of Executive Services Contact List

HUMAN RESOURCES DIVISION

Michael Frawley, Deputy Director (policy)
206-296-8590
(contact Kerry Delaney between 12/17/08 and 12/31/08)

Kerry Delaney, Assistant Operations Manager (policy)
206-296-8505

Jim Johnson, Labor Negotiator III (labor relations; furlough eligibility lists)
206-296-8556

Tim Drangsholt, Safety and Claims Manager (workers' compensation, disability)
206-296-0502

Employee Assistance Program (personal issues)
206-684-2103

Making Life Easier (personal counseling)
1-888-874-7290

FINANCE AND BUSINESS OPERATIONS

Cindy Lee, Benefits and Retirement Operations (general benefits and payroll)
206-263-3189

Pam Bell, Payroll Supervisor (payroll operations)
206-263-9355

Dorothy Bailey, Benefits Supervisor (benefits)
206-263-5061

Sharon Brown, Project Program Manager (retirement)
206-263-9252

Brian Czerwinski, Project Program Manager (leaves administration)
206-296-4949

FACILITIES MANAGEMENT DIVISION

Ameer Faqir, Building Services Manager (building operations)
206-296-0681

Work Order Desk (signage)
206-296-0641

King County Security (for emergencies first call 911)
206-296-5000

Attachment 1 – Memorandum of Agreement

MEMORANDUM OF AGREEMENT BY AND BETWEEN KING COUNTY AND MEMBERS OF THE KING COUNTY COALITION OF UNIONS ADDRESSING THE 2009 BUDGET CRISIS REGARDING FURLOUGH DAYS

WHEREAS the County is experiencing a financial emergency;

WHEREAS, effective January 1, 2009, the County will eliminate hundreds of positions;

WHEREAS a majority of the County's collective bargaining agreements provide for yearly increases based on 90% of the September to September Urban Wage Earners and Clerical Workers Consumer Price index (CPI);

WHEREAS the CPI has historically produced wage increases of between 2% and 3%;

WHEREAS, as the result of the national financial crisis, the County's revenues are significantly restricted while, simultaneously, the CPI will dictate a cost of living adjustment established at 4.88% for 2009;

WHEREAS substantially shutting down all but essential County services for ten days would produce significant savings and preserve employees' COLA, merit and step pay; and

WHEREAS the parties will through this agreement help to preserve essential services and reduce the layoffs necessary during 2009.

NOW THEREFORE, King County and the undersigned unions agree as follows.

1. The County will substantially shut down most of its facilities on the following days during the 2009 calendar year requiring mandated leave by all eligible County employees:

Friday, January 2, 2009
Friday, February 13, 2009
Friday, April 10, 2009
Friday, May 22, 2009
Friday, June 19, 2009
Monday, July 6, 2009
Friday, September 4, 2009
Monday, October 12, 2009
Wednesday, November 25, 2009
Thursday, December 24, 2009

Attachment 1 – Memorandum of Agreement

2. Employees that regularly work 80 hours in a two-week pay period will take the above-referenced days off, unpaid, to the extent that they are regularly scheduled to work on those days. To the extent that one or more of the above-referenced days falls on a regularly scheduled day off, the affected employee will schedule alternate furlough day(s) such that the amount of furlough equates to an 80 hour furlough. Employees that regularly work less than 80 hours in a two week pay period will be furloughed on a pro-rated basis. Regular holiday pay will not be impacted.

3. Employees in a position earning \$16.92 per hour or less during the pay period of a mandated leave day may, for that mandated leave day, use their vacation leave or accept donated vacation leave to cover their pay for that day.

4. With approval from management, employees may voluntarily donate vacation leave to employees in a position earning \$16.92 per hour or less or below during the pay period of a mandated leave day for the sole purpose of helping these employees preserve their pay during the mandated leave. Unused donated leave will remain with the donee and will not revert back to the donor.

5. Employees enrolled in the PERS program who submit letters of intent to retire to the county during calendar years 2009 or 2010 may, for their mandated leave days, use vacation leave. Should any employee who submits such notice not retire during 2009 or 2010, an additional amount of vacation, equal to the number of vacation days that were used for mandated leave in 2009, will be deducted from their leave banks at the end of the respective calendar year.

6. Employees may not perform County work while on a mandated leave day or work additional hours during the workweek to make up for the mandated leave time. Mandatory unpaid leave during the County's shut-down days is non-compensable time under the Washington Minimum Wage Act (WMWA) and the Fair Labor Standards Act (FLSA) and will not count as hours worked towards the overtime threshold; provided that unique issues will be dealt with pursuant to paragraph 11.

7. FLSA exempt employees may not work time in excess of a standard schedule during the weeks that contain mandated leave days. FLSA exempt employees must record the days and hours they worked and the days and hours they did not work during pay periods including a mandatory leave day.

8. Vacation and sick leave accruals will continue during mandated leave days. Where an employee is denied vacation time as the result of the Department's necessity to schedule mandated leave time, the employee may carry over vacation in excess of the cap.

9. Medical, dental, vision and any other insured benefits will be unaffected by the mandated leave except where an employee is on unpaid status for 30 consecutive days or more.

Attachment 1 – Memorandum of Agreement

10. Mandatory unpaid leave will not count as a break in service and shall not affect seniority or step advancement. Probationary periods will not be impacted in that mandatory leave days will not add to the length of probation.

11. The applicable union and departmental management will meet as necessary to discuss any other issues related to the implementation of the mandatory leave days, with the goal that all eligible employees will serve equitable mandated leaves. Discussions may include how to implement the mandated leave for employees on alternative work schedules or part-time employees.

12. With approval from management, employees will be permitted to take additional unpaid leave beyond the established mandatory leave days. FLSA-exempt employees must take voluntary unpaid leave in full workweek increments. Hourly employees may take voluntary unpaid leave in hourly increments. Supervisors and managers are strongly encouraged to approve these requests unless operational needs preclude them from doing so. However, unpaid leave days should not be granted if it will result in the need for another employee to work overtime to perform the duties that would otherwise be completed by the employee taking the unpaid leave day(s) or otherwise result in net loss of County revenue.

13. For signatory unions with contracts expired or expiring in 2009, the County will agree to extend the COLA, merit and step wage provisions through 2010.

14. To the extent this agreement conflicts with any provisions of collective bargaining agreements or any County procedures or guidelines, this agreement controls.

15. By October 30, 2008, the County will produce to the unions a list of furlough-ineligible classifications and work units within the Executive Branch. Furloughs for employees, classifications and work units within the Executive Branch will be for no less time and under circumstances not more favorable than the employees furloughed pursuant to this Agreement. The County may make minor adjustments to the October 30, 2008 list as needed for error, emergent circumstances, or King County Council action.

16. The County agrees to provide notice to all impacted County employees about the 2009 mandatory leave as soon as practicable.

17. The County acknowledges and recognizes that as a result of the shut-downs, less work will be performed and that certain delays and/or reductions in service may result. Work expectations shall be commensurate with the reduced schedule.

18. The parties agree that employees furloughed in 2009 will receive the equivalent of the time on furlough in furlough replacement time. One half of the time will be awarded in 2010 and one half in 2011, unless the County is in an officially declared and Council sanctioned financial emergency. Any unused furlough replacement time will expire at the end of the calendar year in which it was provided.

Attachment 1 – Memorandum of Agreement

19. The County commits that, with respect to the undersigned parties, these furloughs will avoid additional 2009 layoffs that would otherwise have been necessary. In 2009, however, the County may need to layoff further employees as a result of changed or unforeseen circumstances or seasonal business needs.

20. The parties acknowledge that all parties have fulfilled their obligations to engage in collective bargaining over the subjects contained in this agreement.

21. The parties acknowledge that this agreement is subject to approval by the King County Council.

22. Any dispute regarding the interpretation and/or application of this Agreement shall be handled pursuant to the terms of the applicable Union's grievance procedure; provided that if more than one Union has the same or similar dispute, the grievances shall be consolidated.

APPROVED this _____ day of _____, 2008.

By: _____
King County Executive



Declaration of Intent to Retire

To preserve certain county services and reduce the necessity for additional reductions in force in 2009, the county is shutting down all but essential services and placing its employees on an unpaid furlough, also known as an emergency budget furlough, for 80 hours (prorated for employees with workweeks less than 40 hours) in 2009. To minimize the impact of the furlough on the calculation of final compensation for employees intending to retire in 2009 or 2010, eligible employees may use vacation leave for the mandated furlough hours, provided:

- The employee has been designated as part of the “furloughed employee” group;
- The employee is enrolled in a PERS plan and is eligible to retire under that plan in 2009 or 2010; and
- The employee declares intent to retire during the calendar years of 2009 and 2010.

Should the employee decide not to retire in 2009 or 2010 after using vacation leave for the mandated furlough hours, an amount of vacation leave equal to the number of vacation hours used for the mandated furlough hours in 2009 or 2010 will be deducted from the employee’s vacation leave bank at the end of the applicable calendar year.

To declare your intent to retire during 2009 and 2010 so you can use vacation leave for the mandated furlough hours, please complete and submit a copy of this form to each of the following sections:

- Your department payroll unit
- Payroll Operations, CNK-ES-0200
- Human Resources Division Operations, ADM-ES-0450
- Benefits and Retirement Operations, CNK-ES-0240

Employee _____ Birth date _____

Retirement eligibility date _____

PeopleSoft Employee ID _____

Mailing address _____ Apt _____

City _____ State _____ ZIP _____

Daytime phone _____ Evening phone _____

Calendar year of intended retirement ☐ 2009 ☐ 2010

Declaration of intent to retire

I hereby declare that I am eligible and intend to retire in the calendar year indicated above and, therefore, I am entitled to use vacation leave for the mandated furlough hours in 2009. I understand that should I decide not to retire in 2009 or 2010 after using vacation leave for the mandated furlough hours, an amount of vacation leave equal to the number of vacation hours I used for the mandated furlough hours in 2009 or 2010 will be deducted from my vacation leave bank at the end of the applicable calendar year.

Employee Signature _____ Date _____

Copies to: ☐ Department payroll unit ☐ Payroll Operations ☐ HRD Operations ☐ Benefits and Retirement Operations

For official use only	Date received	Received by	Date processed	Date effective

Attachment 3 – Form Letter: Persons Intending To Retire

[Date]

To: PERS Program Employees who Have Submitted “Declarations of Intent to Retire”

From: [Appointing Authority]

Subject: Receipt of “Declaration of Intent to Retire” Notification

In response to the 2009 budget crisis, King County has implemented an unpaid budget emergency furlough plan. Under the plan, all employees are subject to the equivalent of two weeks of unpaid furlough during the year 2009. Some individuals have been identified as furlough-ineligible and will be required to work on furlough days for pay. All other individuals have been identified as furlough-eligible and will not be permitted to work on furlough-identified days for pay. The 2009 furlough days are identified as follows:

Friday, January 2, 2009
Friday, February 13, 2009
Friday, April 10, 2009
Friday, May 22, 2009
Friday, June 19, 2009
Monday, July 6, 2009
Friday, September 4, 2009
Monday, October 12, 2009
Wednesday, November 25, 2009
Thursday, December 24, 2009

In general, individuals are prohibited from using paid leave on furlough days. Exceptions to that prohibition include individuals intending to retire from the PERS retirement plans in 2009 or 2010. The conditions under which individuals may use paid vacation time for those days are as follows:

Employees enrolled in the PERS program who submit letters of intent to retire to the county during calendar years 2009 or 2010 may, for their mandated leave days, use vacation leave. Should any employee who submits such notice not retire during 2009 or 2010, an additional amount of vacation, equal to the number of vacation days that were used for mandated leave in 2009, will be deducted from their leave banks at the end of the respective calendar year.

You have submitted documentation that you plan to retire in 2009 or 2010. You are therefore authorized to use vacation on furlough days. Employees intending to use

Attachment 3 – Form Letter: Persons Intending To Retire

vacation for a furlough day must conform to standard county practices or the practices of the employees' department. Generally speaking, a vacation of one day or less must be requested and approved at least three days in advance of the vacation day or in accordance with the applicable collective bargaining agreement. Vacations more than one day must be requested two weeks in advance. Employees may not use vacation which has not been accrued or donated. Employees not requesting vacation for a furlough day will not be paid vacation for that day unless a vacation request is on file.

If you have questions on the administration of furlough days and the use of vacation, please contact your Human Resources Service Delivery Manager.

Attachment 4 – Form Letter: Persons Earning \$16.92 per Hour or Less

[Date]

To: Employees Identified as Earning \$16.92 per Hour or Less

From: [Appointing Authority]

Subject: Use of Paid Leave on Furlough Days

In response to the 2009 budget emergency, King County has identified a need to place all employees on the equivalent of two weeks of unpaid emergency budget furlough. Those days have been identified as follows:

Friday, January 2, 2009
Friday, February 13, 2009
Friday, April 10, 2009
Friday, May 22, 2009
Friday, June 19, 2009
Monday, July 6, 2009
Friday, September 4, 2009
Monday, October 12, 2009
Wednesday, November 25, 2009
Thursday, December 24, 2009

As a result of a Memorandum of Agreement with a coalition of unions and modifications to the King County Code, some exceptions to the unpaid furlough days may be made. Individuals earning \$16.92 per hour or less may use previously accrued vacation accruals or donated vacation for the furlough days. The use of the vacation will be available to employees earning \$16.92 per hour or less.

If you plan to be paid for the scheduled furlough days, you must complete an absence request form or the form used in your department in advance of the furlough days. The request for vacation must be filed with your supervisor in accordance with standard county practices at least three days in advance of the furlough day. Persons not requesting a paid vacation day for a furlough day will not be paid for that day regardless of whether the individual was earning \$16.92 per hour or not if an approved request for vacation is not on file. Vacation may not be used before it is accrued or donated.

If you have questions concerning the administration of the furlough day vacation payment option, please contact your Human Resources Service Delivery Manager.

Attachment 5 –Form Letter: FLSA-Exempt Employees Converting To Hourly

[Date]

To: FLSA-Exempt Employees

From: [Appointing Authority]

Subject: Furlough Days

In response to the 2009 budget crisis, King County has decided to institute unpaid furlough days. The unpaid furlough days are as follows:

Friday, January 2, 2009
Friday, February 13, 2009
Friday, April 10, 2009
Friday, May 22, 2009
Friday, June 19, 2009
Monday, July 6, 2009
Friday, September 4, 2009
Monday, October 12, 2009
Wednesday, November 25, 2009
Thursday, December 24, 2009

You occupy a position which is exempt from the overtime provisions of the Fair Labor Standards Act (FLSA-exempt). As such, rules associated with hourly employees do not typically apply to you. During those weeks containing furlough days, you will be converted to an hourly employee status. As a result, you will fall under all rules associated with the management of hourly employees.

King County has entered into a Memorandum of Agreement with the Coalition of Labor Unions. In addition, modifications to Title 3 of the King County Code have been made which will enable the implementation of furlough days. Excerpts from the Memorandum of Agreement affecting FLSA-exempt employees are as follows:

6. Employees may not perform County work while on a mandated leave day or work additional hours during the workweek to make up for the mandated leave time. Mandatory unpaid leave during the County's shut-down days is non-compensable time under the Washington Minimum Wage Act (WMWA) and the Fair Labor Standards Act (FLSA) and will not count as hours worked towards the overtime threshold; provided that unique issues will be dealt with pursuant to paragraph 11.

Attachment 5 –Form Letter: FLSA-Exempt Employees Converting To Hourly

7. FLSA exempt employees may not work time in excess of a standard schedule during the weeks that contain mandated leave days. FLSA exempt employees must record the days and hours they worked and the days and hours they did not work during pay periods including a mandatory leave day.

11. The applicable union and departmental management will meet as necessary to discuss any other issues related to the implementation of the mandatory leave days, with the goal that all eligible employees will serve equitable mandated leaves. Discussions may include how to implement the mandated leave for employees on alternative work schedules or part-time employees.

12. With approval from management, employees will be permitted to take additional unpaid leave beyond the established mandatory leave days. FLSA-exempt employees must take voluntary unpaid leave in full workweek increments. Hourly employees may take voluntary unpaid leave in hourly increments. Supervisors and managers are strongly encouraged to approve these requests unless operational needs preclude them from doing so. However, unpaid leave days should not be granted if it will result in the need for another employee to work overtime to perform the duties that would otherwise be completed by the employee taking the unpaid leave day(s) or otherwise result in net loss of County revenue.

During a furlough week, you may not perform work outside standard working hours. You may not work online or by telephone. You must subscribe to the normal starting and ending times as established by the practices with you and your supervisor. Failure to do so may subject you to corrective for failure to follow directives.

Unless indicated otherwise by a collective bargaining agreement, you will be eligible for overtime payment if you work in excess of 40 hours in a week during which you are an hourly employee but you must receive prior approval to work overtime. Compensatory time accrual (earning) for FLSA-exempt staff converted to hourly during furlough affected weeks will only be approved in rare and unusual circumstances.

The workweeks are designated as follows:

- For employees paid under the MSA system, an employee's typical workweek begins at 12:00 a.m. on Sunday and continues for the next 168 hours through Saturday, unless otherwise designated in writing by the department director.
- For employees paid under the PeopleSoft system, an employee's typical workweek begins at 12:00 a.m. on Saturday and continues for the next 168 hours through Friday, unless otherwise designated in writing by the department director.

Once you are converted to hourly status, it is required that you be managed as an hourly employee. During a week in which a furlough day occurs:

Attachment 5 –Form Letter: FLSA-Exempt Employees Converting To Hourly

- Specific starting, ending and meal periods apply. Under Washington State law, a minimum of a half hour unpaid lunch period is required approximately half way through the day.
- Rest periods (coffee breaks) apply. Under county policy and Washington State law, a minimum of a 15 minute rest period is required the first half of the day and a minimum of a 15 minute rest period is required the second half of the day. Intermittent breaks totaling 15 minutes throughout either half of the day are acceptable.
- During a week in which a furlough occurs, FLSA-exempt employees will be converted to hourly employees and scheduled to work 32 hours. Any time worked in excess of 32 hours must be preapproved. Hours between 32 and 40 are paid at straight time. Hours over 40 are paid at time and one-half.
- Unless authorized, you should not work through lunch, telecommute, work on Blackberries or via VPN, take work-related calls which are more than eight minutes in length after hours or on a furlough day.

You will not receive separate notices each furlough week that you have been converted to an hourly status. This memorandum will serve as your notification for each of the furlough weeks. Please refer to the “Furlough Administration Guidance Document” for more detailed information. It is located at:

Public Folders/Human Resources/Policies & Guidelines/Furlough Administration Guidance Document

In general terms, FLSA-exempt employees are expected to work the number of hours required by their position. Therefore, the county acknowledges and recognizes that as a result of the shut-downs, less work will be performed and that certain delays and/or reductions in service may result. Work expectations shall be commensurate with the reduced schedule.

If you have any questions concerning your assignments or work arrangements, please contact your supervisor. If you have any questions concerning furlough administration, please contact your Human Resources Service Delivery Manager.

Attachment 6: Furlough Day – Eligibility Letter

[Date]

To: Furlough-Ineligible Employees

From: [Appointing Authority]

Subject: Furlough Ineligibility

In response to the 2009 budget crisis, King County has decided to institute unpaid furlough days. By shutting down all but essential county services for ten days, significant savings will be produced. Essential county services as identified will continue on those days. The unpaid furlough days have been identified as follows:

Friday, January 2, 2009
Friday, February 13, 2009
Friday, April 10, 2009
Friday, May 22, 2009
Friday, June 19, 2009
Monday, July 6, 2009
Friday, September 4, 2009
Monday, October 12, 2009
Wednesday, November 25, 2009
Thursday, December 24, 2009

The position you occupy has been identified as performing an essential service for the purposes of furlough. As a result, you will be considered furlough-ineligible for that day. You will be expected to perform your normal duties during your normal work hours for all furlough days. All other terms and conditions of your employment remain the same. If you have any questions on your assignment, facilities arrangements, transportation arrangements or other matters related to furlough days, please contact your supervisor.

If you have questions about the administration of furlough days, pay or benefits, please contact your Human Resources Service Delivery Manager.

Attachment 7: Furlough Make-Up Day Chart

FURLOUGH MAKE-UP DAYS

**King County says must
work**



**1) No Make-Up Days (Furlough
Ineligible)
2) Make Up Days (Furlough Eligible) -
working due to Special Conditions**

Rotational Schedule



**Will take alternate furlough days
(to get to 10 - 80 hours)**

*(work with Labor Management
Committee to establish alternative
Furlough Day schedule)*

Alternative Work Schedules



Will take alternative furlough days

*(work with Labor Management
Committee to establish alternative
Furlough Day schedule)*

Attachment 8: Furlough Day – Standby / Callout Chart

FURLOUGH DAYS STANDBY / CALLOUT

	Collective Bargaining Agreement <u>Provision</u>	Collective Bargaining Agreement <u>No Provision</u>
Represented Employee on Standby / Callout	Follow Collective Bargaining Agreement¹	Skeleton Crew Working
Non-Represented Employee on Standby / Callout		Skeleton Crew Working

¹ Where standby or callout provisions distinguish between holidays/weekends and other days, the non-holiday, non-weekend provisions will apply.